

# Memo

To: Senator  Representative  Wieckert

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2005 draft.

LRB Number: LRB - 3631

Version: " / 1 "

Fiscal Estimate Prepared By: (agency abbr.) DA

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 12 / 20 / 2005

\* \* \* \* \*

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

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THIS DRAFT WAS INTRODUCED AS: 2005 \_\_\_\_\_

**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Tuesday, December 20, 2005 10:08 AM  
**To:** Rep.Wieckert  
**Cc:** Becher, Scott  
**Subject:** LRB 05-3631/1 (un-introduced) (FE by DA - attached - for your review)

**Attachments:** FE\_Wieckert.PDF



FE\_Wieckert.PDF  
(342 KB)



**Fiscal Estimate Narratives**

**DA 12/20/2005**

LRB Number <b>05-3631/1</b>	Introduction Number	Estimate Type <b>Original</b>
<b>Description</b> Vehicle owner liability for violations arising from the failure to stop at the scene of an accident and providing a penalty		

**Assumptions Used in Arriving at Fiscal Estimate**

There are no data by which to estimate the number of additional cases that will be referred by law enforcement to district attorneys' offices were this bill to be enacted.

**Long-Range Fiscal Implications**

None

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LRB Number: LRB - 3631

Version: " / 1 "

Fiscal Estimate Prepared By: (agency abbr.) SPD

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Entered In Computer And Copy Sent To Requester Via E-Mail: 12 / 21 / 2005

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**THIS DRAFT WAS INTRODUCED AS:** 2005 \_\_\_\_\_

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Wednesday, December 21, 2005 8:55 AM  
**To:** Rep.Wieckert  
**Cc:** Becher, Scott  
**Subject:** LRB 05-3631/1 (un-introduced) (FE by SPD - attached - for your review)

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FE\_Wieckert.PDF  
(436 KB)



## Fiscal Estimate Narratives

SPD 12/21/2005

LRB Number	05-3631/1	Introduction Number	Estimate Type	Original
<b>Description</b> Vehicle owner liability for violations arising from the failure to stop at the scene of an accident and providing a penalty				

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) provides legal representation in criminal cases and other specified proceedings in which the loss of personal liberty or parental rights may occur. For adult clients, the SPD must complete a financial eligibility evaluation before appointing an attorney. SPD services are constitutionally required because in the case types handled by SPD, a defendant without the financial means to hire an attorney has the right to have an attorney appointed. Therefore, any bill that would increase the number of cases handled by SPD would increase SPD costs.

This bill does not create new criminal offenses. This bill relates to penalties for non-criminal ordinance violations. The SPD does not provide representation in ordinance cases, unless one or more criminal charges are issued in connection with the incident.

Whether other agencies would see more revenue or more costs would depend, in part, on the difficulty in collecting the increased forfeitures and costs from defendants. There may also be more defendants who lose operating privileges for inability to pay the higher amounts (because suspension of license may be imposed for non-payment).

### Long-Range Fiscal Implications

### Fiscal Estimate - 2005 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> <b>05-3631/1</b>	<b>Introduction Number</b>
<b>Description</b> Vehicle owner liability for violations arising from the failure to stop at the scene of an accident and providing a penalty	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
<b>Local:</b>	
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>
DOT/ Dennis Hughes (608) 267-9075	Julie Johnson (608) 267-3703
	<b>Date</b>
	2/7/2006

copy to Rep. Wieckert 02-07-2006  
 → FE is for old "1" version  
 → draft is now a "1/2"  
 → introduced as AB 966

## Fiscal Estimate Narratives

DOT 2/7/2006

LRB Number	05-3631/1	Introduction Number	Estimate Type	Original
<b>Description</b> Vehicle owner liability for violations arising from the failure to stop at the scene of an accident and providing a penalty				

### Assumptions Used in Arriving at Fiscal Estimate

This bill creates liability for the owner of a vehicle operated in the commission of a Failure-To-Stop (FTS) violation following a traffic crash. A person who observes an FTS violation may, within 24 hours, report the violation to a county or municipal traffic officer. If the report includes certain information (time and location of the crash, and for each vehicle involved in the crash, the registration number, color and type), then the officer may, within 72 hours, investigate the alleged violation.

After determining probable cause that the FTS violation occurred, the officer may cite the vehicle owner. The owner has certain limited defenses, as do lessors and dealers of vehicles identified in this manner, including: (a) vehicle was stolen at the time of the FTS violation, or (b) owner/lessor provides the name of person operating the vehicle at the time of the FTS violation and that person admits to the violation.

If convicted of FTS, vehicle owners would face a forfeiture up to \$100 for FTS involving an unattended vehicle or damage to property other than a motor vehicle and up to \$1,000 for any other FTS violation. There would be no suspension or revocation of the vehicle owner's operating privilege and no demerit points would be recorded.

Under current law, several types of traffic violations can be cited based on non-law enforcement eyewitness vehicle identification (i.e. failure to stop for school bus, failure to stop at active train signals, failure to stop for fire trucks, failure to stop at school crossings). However, each of these identification opportunities is limited to a specific class of eyewitnesses (i.e. school bus drivers, railroad employees, fire department personnel, adult school crossing guards).

It is assumed the intent of the bill is two-fold:

(a) create a new disincentive for drivers to leave the scene of a crash without performing their legal duties (i.e. in effect, reduce the number of hit and run crashes, as well as the number of driver-FTS convictions, by increasing the likelihood that the driver will eventually be identified)

(b) create a stronger incentive for owners of vehicles involved in FTS violations to identify the drivers (if they were not operating the vehicle at the time of the crash).

In 2002-2004, there were an average of 13,460 hit and run traffic crashes per year (excluding parking lot and private property crashes).

In 2002-2004, there were an average of 7,857 convictions per year for the existing variety of FTS violations (i.e. failure to report a crash, failure to stop after crash, failure to stop after striking unattended vehicle, duty upon striking property, plus equivalent offenses involving commercial vehicles).

In 2002-2004, over \$535,000 in total damage to Department-owned roadside property (e.g. signs, guardrail, light poles, culverts) went uncollected because responsible hit and run drivers could not be identified.

The amount of reduction in hit and run crashes and FTS convictions and the increase in reimbursement for damage to Department-owned roadside property that will arise from this bill is indeterminable since the new sanctions imposed on the owner of a vehicle involved in an FTS offense are less severe than those a vehicle owner would face under current law if he/she is the driver, flees the scene, is identified to police, and is later tracked down and cited under the new owner-FTS statute.

The disparity in penalty severity is less for owner-FTS vs. driver-FTS involving unattended vehicles or damage to property other than vehicles. The \$100 maximum forfeiture for owner-FTS in these cases is equal to that for driver-FTS, but the offense does not also carry the equivalent license suspension (up to 1

year), nor does it carry the 6 demerit points for FTS after striking an unattended vehicle.

The disparity in penalty severity is dramatic for owner-FTS vs. driver-FTS after striking a person or an attended/occupied vehicle. The \$1,000 maximum forfeiture for owner-FTS is equal to that for driver-FTS if no one is injured, but it is lower than the maximum forfeiture for driver-FTS if someone is injured (up to \$10,000). Nor does owner-FTS feature the jail time options available to courts in cases of driver-FTS (i.e. up to 6 months if no injury, up to 9 months if injury but not great bodily harm, Class E felony if GBH, Class D felony if someone was killed).

In current practice, law enforcement personnel already take enforcement action when probable cause can be determined that a driver has fled the scene of a crash (i.e. an unknown portion of the nearly 7,900 driver-FTS convictions each year involve vehicle identification based on eyewitness information). It cannot be determined how many new FTS citations would be issued to vehicle owners due to diligent law enforcement investigations based on current levels or increased volumes of timely, accurate and complete eyewitness descriptions of all vehicles involved crashes.

### **Long-Range Fiscal Implications**

Unknown

## Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original
  Updated
  Corrected
  Supplemental

<b>LRB Number</b> 05-3631/1		<b>Introduction Number</b>	
<b>Description</b> Vehicle owner liability for violations arising from the failure to stop at the scene of an accident and providing a penalty			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>  Indeterminable			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
	State Operations - Salaries and Fringes	\$	
	(FTE Position Changes)		
	State Operations - Other Costs		
	Local Assistance		
	Aids to Individuals or Organizations		
	<b>TOTAL State Costs by Category</b>	<b>\$</b>	<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
	GPR		
	FED		
	PRO/PRS		
	SEG/SEG-S		
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)</b>			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$	\$
NET CHANGE IN REVENUE		\$	\$
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	
DOT/ Dennis Hughes (608) 267-9075		Julie Johnson (608) 267-3703	
		<b>Date</b>	
		2/7/2006	



State of Wisconsin  
2005 - 2006 LEGISLATURE

Soon

in 1/5

LRB-3631/2  
ARG:kjf:js

RMNR

2005 BILL

Jacket being returned

changes p. 2 & 4

Regen

1 AN ACT *to amend* 346.01 (2); and *to create* 346.67<sup>5</sup> and 346.74 (6) of the statutes;  
2 **relating to:** vehicle owner liability for violations arising from the failure to stop  
3 at the scene of an accident and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Current law imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including: fleeing a traffic officer; illegally passing a school bus or fire truck; illegally crossing a railroad crossing or controlled school crossing; and failing to yield the right-of-way to an emergency vehicle or a funeral procession. The owner of a vehicle used to commit these traffic violations is subject to specified penalties, but the owner's motor vehicle operating privilege may not be revoked or suspended and no demerit points may be assessed against the owner's driving record. The vehicle owner may assert certain defenses to owner liability.

Also under current law, if a vehicle operator has an accident resulting in personal injury or vehicle damage, the vehicle operator must immediately stop the vehicle at or near the scene of the accident, provide certain information, and render reasonable assistance to any injured person. If a vehicle operator has an accident with an unattended vehicle or with property on or adjacent to a highway, the vehicle operator must immediately stop and fulfill certain obligations to provide notice of the vehicle operator's identity. The penalty for a failure-to-stop violation involving an unattended vehicle or property other than a vehicle is a forfeiture of not more than \$200, and the penalty for other failure-to-stop violations ranges from a fine of not

**BILL**

less than \$300 nor more than \$1,000 or imprisonment for not more than six months or both if no personal injury occurs to a fine of not more than \$100,000 or imprisonment for not more than 25 years or both if the accident involves the death of a person.

This bill imposes liability upon the owner of a vehicle operated in the commission of a failure-to-stop violation. Any person who observes a failure-to-stop violation may, within 24 hours after observing the violation, report the violation to a traffic officer of the county or municipality in which the violation occurred. If the report contains specified information, the traffic officer may, within 72 hours after receiving the report, investigate the violation and, after verifying certain information and determining that there is probable cause to believe that a failure-to-stop violation has occurred, prepare a uniform traffic citation and serve it upon the owner of the vehicle being operated in the commission of the failure-to-stop violation. The owner is liable for the failure-to-stop violation, subject to certain limited defenses. Although an owner may not assert as a defense that the owner was not operating the vehicle at the time of the failure-to-stop violation, the owner has a defense to liability if the vehicle had been stolen at the time of the violation or if the owner provides the traffic officer with the name and address of the person who was operating the vehicle at the time of the violation and ~~that person admits~~ operating the vehicle at the time of the violation. Lessors and dealers of vehicles may assert similar types of defenses. The owner also may not be liable if the vehicle operator has been convicted of the failure-to-stop violation. If an owner is liable for a failure-to-stop violation involving an unattended vehicle or damage to property other than a vehicle, the owner is subject to a forfeiture of not more than \$100. If an owner is liable for any other failure-to-stop violation, the owner is subject to a forfeiture of not more than \$1,000. The owner's operating privilege may not be suspended or revoked and no demerit points may be recorded against the owner's driving record.

merit  
ANAL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 346.01 (2) of the statutes is amended to read:
- 2           346.01 (2) In this chapter, notwithstanding s. 340.01 (42), "owner" means, with
- 3           respect to a vehicle that is registered, or is required to be registered, by a lessee of
- 4           the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
- 5           liability under ss. 346.175, 346.195, 346.205, 346.452, 346.457, 346.465, 346.485,
- 6           346.505 (3), 346.675, and 346.945.

**BILL**

1           **SECTION 2.** 346.675 of the statutes is created to read:

2           **346.675 Vehicle owner's liability for failing to stop at the scene of an**  
3 **accident.** (1) Subject to s. 346.01 (2), the owner of a vehicle operated in the  
4 commission of a violation of s. 346.67 (1), 346.68, or 346.69 shall be liable for the  
5 violation as provided in this section.

6           (2) Any person who observes a violation of s. 346.67 (1), 346.68, or 346.69 may,  
7 within 24 hours after observing the violation, report the violation to a traffic officer  
8 of the county or municipality in which the violation occurred. If possible, the report  
9 shall contain the following information:

10           (a) A description of the violation alleged.

11           (b) The time and the approximate location at which the violation occurred.

12           (c) The vehicle registration number and color of all vehicles involved in the  
13 violation.

14           (d) Identification of each vehicle involved in the violation as an automobile,  
15 station wagon, motor truck, motor bus, motorcycle, or other type of vehicle.

16           (e) If the violation included damage to property other than a vehicle, a  
17 description of such property.

18           (3) (a) Within 72 hours after receiving a report containing all of the information  
19 in sub. (2), the traffic officer may investigate the violation and, after verifying the  
20 information provided under sub. (2) (c) to (e) and determining that there is probable  
21 cause to believe that a violation of s. 346.67 (1), 346.68, or 346.69 has occurred, may  
22 prepare a uniform traffic citation under s. 345.11 and personally serve it upon the  
23 owner of the vehicle being operated in the commission of the violation of s. 346.67 (1),  
24 346.68, or 346.69.

**BILL****SECTION 2**

1 (b) If with reasonable diligence the owner specified in par. (a) cannot be served  
2 under par. (a), service may be made by leaving a copy of the citation at the owner's  
3 usual place of abode within this state in the presence of a competent member of the  
4 family at least 14 years of age, who shall be informed of the contents thereof.

5 (c) If with reasonable diligence the owner specified in par. (a) cannot be served  
6 under par. (a) or (b) or if the owner specified in par. (a) lives outside of the jurisdiction  
7 of the issuing authority, service may be made by certified mail addressed to the  
8 owner's last-known address.

9 (4) (a) Except as provided in par. (b), it shall be no defense to a violation of this  
10 section that the owner was not operating the vehicle at the time of the violation.

11 (b) The following are defenses to a violation of this section:

12 1. That a report that the vehicle was stolen was given to a traffic officer before  
13 the violation occurred or within a reasonable time after the violation occurred.

14 2. If the owner of the vehicle, including a lessee specified in subd. 3., or a person  
15 on a trial run specified in subd. 4. provides a traffic officer with the name and address  
16 of the person operating the vehicle at the time of the violation ~~and the person so~~

17 ~~named~~ admits operating the vehicle at the time of the violation, then the person  
18 operating the vehicle shall be charged under s. 346.67 (1), 346.68, or 346.69 and the  
19 owner, including a lessee, or person on a trial run shall not be charged under this  
20 section.

21 3. Subject to subd. 2., if the vehicle is owned by a lessor of vehicles and at the  
22 time of the violation the vehicle was in the possession of a lessee, and the lessor  
23 provides a traffic officer with the information required under s. 343.46 (3), then the  
24 lessee and not the lessor shall be charged under this section.



2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3631/2ins  
ARG:.....

**INSERT ANAL:**

(no P) ~~and~~<sup>e</sup> there is not probable cause to believe that the vehicle owner was

**INSERT 4-17:**

(no P) and sufficient information for the officer to determine that probable cause does not exist to believe that the owner of the vehicle was

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(The Draft's Requester)

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THIS DRAFT WAS INTRODUCED AS: 2005 AB966

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Wednesday, January 18, 2006 9:06 AM  
**To:** Rep.Wieckert  
**Cc:** Becher, Scott  
**Subject:** LRB 05-3631/2 (un-introduced) (FE by DA - attached - for your review)

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## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Wednesday, January 18, 2006 9:04 AM  
**To:** Rep.Wieckert  
**Cc:** Becher, Scott  
**Subject:** LRB 05-3631/2 (un-introduced) (FE by SPD - attached - for your review)

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